IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Writ Petition No. 949 of 2005 (S/S)

Smt. Anita Uniyal
W/o Shri Ayodhya Prasad Uniyal
R/o 171/1 Dehradun Road, Rishikesh
District Dehradun …Petitioner.

Versus

1. State of Uttaranchal through its
   Secretary Education
   Dehradun
2. Director, Education
   State of Uttaranchal
   Dehradun
3. District Education Officer
   Tehri Garhwal Narendra Nagar
   District Tehri Garhwal …Respondents

Sri I.P. Gairola, learned counsel for the petitioner
Shri Paresh Tripathi, learned standing counsel for the State.

Hon'ble B.C. Kandpal, J.

By means of this writ petition a relief has been sought in the nature of certiorari quashing the impugned transfer order dated 28.06.2005(annexure No. 1 to the petition) passed by the respondent No. 3 i.e. District Education Officer, Tehri Garhwal.

Brief facts giving rise to this petition are that the petitioner was appointed as Assistant Teacher in Primary School Moan (Kujani), Tehri Garhwal in the year 1992. Thereafter he was transferred various places and presently he is working at Primary School Dhalwala, Tehri Garhwal since 2002.

The Respondent No. 3 has passed an order by which the petitioner has been transferred from Primary School Dhalwala (Block-Narendra Nagar) to Primary School Mukhmalgaon (Block- Pratap Nagar) District Tehri Garhwal which comes under the category of very remote area *(Ati Durgam).*

Feeling aggrieved by the aforesaid transfer order, the petitioner has preferred this writ petition before this Court.

Heard learned counsel for the petitioner as well as learned standing counsel for the State and perused the recode.

Learned counsel for the petitioner has submitted that the Rules pertaining to the inconsistent category has not been followed in case of the petitioner. Moreover, he has further submitted that a person who is posted at *Durgam* area should be ultimately posted to the *Sugam* area and this Rule has also not been considered while transferring the petitioner.

Learned counsel for the petitioner has also submitted that the petitioner has already served in the year 1992 to 1995 (4 years) in the very remote *(Ati Durgam)* place, thereafter he was transferred from there and served from 1995 to 2000 (5 years) in a remote *(Durgam)* place. He has further submitted that the impugned transfer order dated 28.06.2005 of the petitioner is against the transfer policy of the State Government vide order dated 13.05.2005.

Learned counsel for the petitioner has invited my attention towards the Government Order No. 718/XXIV(2)/2005 *dated* 13.05.2005 providing the Rules of Transfer of Teacher relating to Basic and Secondary Education.

It has further been submitted that the policy which has been provided vide Government Order dated 13.05.2005 has not been considered by the respondent in passing the impugned transfer order dated 28.06.2005.

I do not find any force in the argument advanced by the learned counsel for the petitioner.

The record shows that the petitioner has already made a representation before the respondent No. 3 i.e. District Education Officer, Tehri Garhwal on 03.07.2005 which has been filed as annexure 4 to the petition and that representation is yet to be decided.

I, accordingly direct, the respondent No. 3 to decide the representation of the petitioner dated 03.07.2005 (annexure 4 to the petition) provided the petitioner shall file the certified copy of the judgment passed by this Court within a period of 15 days and the

respondent No. 3 shall thereafter decide the representation of the petitioner in the light of the Government Order dated 13.05.2005 within a period of 15 days by passing the speaking and reasoned order.

With the aforesaid observation, the writ petition is finally disposed of.

(B.C. Kandpal, J.)

14.07.2005
ASWAL